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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91185374
Party	Plaintiff CBS Broadcasting Inc.
Correspondence Address	CHRISTOPHER P. BEALL LEVINE SULLIVAN KOCH & SCHULTZ, L.L.P. 1888 SHERMAN ST., SUITE 370 DENVER, CO 80203 UNITED STATES cbeall@lskslaw.com
Submission	Motion to Compel Discovery
Filer's Name	Christopher P. Beall
Filer's e-mail	cbeall@lskslaw.com, chenning@lskslaw.com
Signature	/Christopher P. Beall/
Date	04/14/2010
Attachments	CBS - M to compel production of discovery of responses (00295417).PDF ( 5 pages )(114393 bytes )

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Trademark: **VITAMEATAVEGAMIN**  
Application: 77/299,999  
Filed: October 9, 2007  
Published: March 25, 2008

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**CBS BROADCASTING Inc.,**

Opposition No. **91185374**

Opposer,

v.

**JAMIE MAHJOBI,**

Applicant.

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**OPPOSER’S MOTION TO COMPEL DISCOVERY RESPONSES BY APPLICANT**

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Opposer CBS BROADCASTING INC. (“Opposer”), through its counsel with Levine Sullivan Koch & Schulz, L.L.P., pursuant to Rules 37(a)(3)(A) and 37(f) of the Federal Rules of Civil Procedure, and 37 C.F.R. § 2.120(e)(1), moves for an order from the Board compelling Applicant Jamie Mahjobi (“Applicant”) to respond to the pending interrogatories and requests for production of documents that were served on Applicant on February 23, 2010.

In support of this motion, Opposer states as follows:

1. **Certificate of Conferral:** Pursuant to Fed. R. Civ. P. 37(a)(1), undersigned counsel for Opposer certifies that he has attempted to confer in good faith with Applicant regarding the matters raised herein, but he has been unable to resolve these issues without

intercession from the Board. Applicant has not responded to any of the emails that Opposer's counsel has sent to Applicant regarding this matter.

2. Opposer notes that on April 2, 2010, it filed a motion for entry of judgment against Applicant based on her non-compliance with the Board's prior order to make herself available for a deposition in this case no later than March 31, 2010. To the extent that motion is granted, this separate discovery motion will be moot. The Board need only address this motion if it determines not to enter judgment against Applicant for her prior discovery violations.

3. This motion arises from the set of discovery requests that Opposer served – both electronically and by U.S. Mail – on Applicant on February 23, 2010, after the Applicant's untimely compliance with the Board's order directing the Applicant to provide supplemental Rule 26(a)(1) disclosures.

4. Based on that date of service, Applicant's deadline to respond to discovery requests otherwise would have been March 30, 2010. However, because Applicant was at that time scheduled to appear for her deposition on March 31, 2010, counsel for Opposer requested that Applicant provide an electronic copy of her discovery responses no later than March 26, 2010 so that they might be used at her deposition.

5. Applicant never responded to that request for electronic copies of her responses.

6. Instead, on March 30, 2010, Applicant sent an email to counsel for Opposer indicating that she had mailed her responses to Opposer's counsel on that date, by U.S. Mail.

7. Counsel for Opposer then requested that Applicant bring her discovery responses with her to the deposition that was scheduled for March 31, 2010, in light of the fact that

Opposer's counsel already was in Los Angeles for the Applicant's deposition. That request too was to no avail because Applicant failed to appear for her deposition on March 31, 2010.

8. Following the aborted deposition, and after allowing for a full week from the date when Applicant purportedly mailed her discovery responses, Opposer's counsel notified Applicant that he had not received the responses that she had claimed to have mailed on March 30, 2010.

9. Opposer's counsel again notified Applicant on April 12, 2010 that he still had not received Applicant's discovery responses.

10. To date, Applicant has failed to respond to any of Opposer's requests for production of her discovery responses, her last email contact with undersigned counsel being her message on March 30, 2010 indicating that she purportedly had mailed her discovery responses on that date.

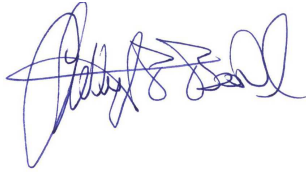
11. At this point, Applicant's responses to Opposer's interrogatories and requests for production are well past due. *See* Fed. R. Civ. P. 33(b)(3) and 34(b). Applicant has failed to provide any explanation for her failure to comply with the response deadlines, and she also has failed to provide any basis upon which to conclude that her neglect of these deadlines was excusable.

12. In light of these circumstances, but only to the extent the Board has not already granted Opposer's separately filed (on April 2, 2010) motion for entry of judgment, the Board should enter an order requiring Applicant to provide her discovery responses by a date certain. (Opposer notes that the circumstances described herein also further buttress the pending motion for entry of judgment.)

**WHEREFORE**, Opposer CBS Broadcasting Inc. respectfully requests that to the extent the matter is not already moot, the Board should enter an order requiring Applicant, within five business days of the issuance of the order, to serve Opposer's counsel with her responses, both electronically and in paper form, to the interrogatories and requests for production that previously were served upon her.

Respectfully submitted this 13th day of April, 2010.

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.



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Christopher P. Beall  
1888 Sherman Street, Suite 370  
Denver, Colorado 80203  
Telephone - (303) 376-2400  
Facsimile - (303) 376-2401  
E-mail - [cbeall@lskslaw.com](mailto:cbeall@lskslaw.com)

Attorneys for Opposer  
CBS BROADCASTING INC.

### **CERTIFICATE OF SERVICE**

I do hereby certify that on this 13th day of April, 2010, a true and correct copy of the foregoing **OPPOSER'S MOTION TO COMPEL DISCOVERY RESPONSES BY APPLICANT** has been transmitted by United States Postal Service first class mail, postage prepaid, with a courtesy electronic copy also delivered by e-mail transmission, to:

Jamie Mahjobi  
18034 Ventura Boulevard, # 195  
Encino, California 91316-3516  
usptojm@yahoo.com

/s Christopher P. Beall